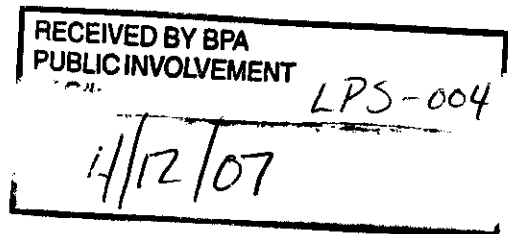


Community Development Department

Planning Division Building Safety Division Environmental Health Division

117 NW Lafayette Avenue Bend Oregon 97701-1925
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

April 10, 2007



Dave Tripp, Project Manager
BPA Public Affairs-DKC-7
P.O. Box 14428
Portland, OR 97293

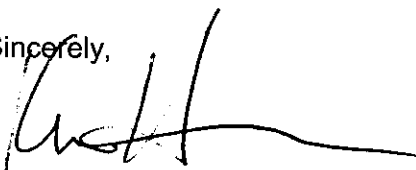
SUBJECT: La Pine Substation Communication Tower; 17200 Finley Butte Road.

Dear Mr. Tripp:

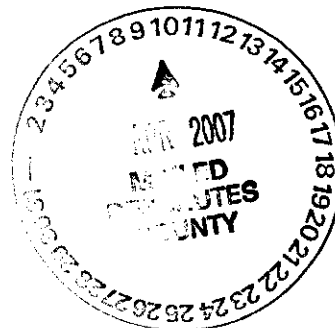
Thank you for the opportunity to comment on the proposed 140-foot telecommunications tower to be installed at the La Pine Substation. The referenced property is identified on Deschutes County Assessor's Map number 22-11 as tax lot 100 and is zoned Forest Use (F-1). It is also within the Surface Mining Impact Area (SMIA) and Wildlife Area (WA) combining zones.

This type of use is listed in the F-1 zone at section 18.36.030(I) of the Deschutes County Code (DCC). Applicable review criteria under the DCC are found at sections 18.36.040 and 18.128.340, attached. I hope this information is helpful to you. Please feel free to contact me at (541) 385-1401 if you have any additional questions regarding the zoning of this property.

Sincerely,


Kevin M. Harrison
Principal Planner

KMH:slr



**Chapter 18.36. FOREST USE ZONE -
F-1**

- 18.36.010. Purpose.**
- 18.36.020. Uses permitted outright.**
- 18.36.030. Conditional uses permitted.**
- 18.36.040. Limitations on conditional uses.**
- 18.36.050. Standards for single-family dwellings.**
- 18.36.060. Siting of dwellings and structures.**
- 18.36.070. Fire siting standards for dwellings and structures.**
- 18.36.080. Fire safety design standards for roads.**
- 18.36.085. Stocking requirement.**
- 18.36.090. Dimensional standards.**
- 18.36.100. Yards and setbacks.**
- 18.36.110. Stream setbacks.**
- 18.36.120. State law controls.**
- 18.36.130. Rimrock setbacks.**
- 18.36.140. Restrictive covenants.**

18.36.010. Purpose.

The purpose of the Forest Use Zone is to conserve forest lands.

(Ord. 92-025 § 2, 1992; Ord. 91-020 § 1, 1991)

18.36.020. Uses permitted outright.

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in DCC 18.36 and any other applicable provisions of DCC Title 18.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash.
- B. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use. For the purposes of this section, including DCC 18.36.020(B) and (C) "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- C. Physical alterations to commercial forest land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities. Gravel extraction and processing not covered by DCC 18.36.020 is governed by DCC 18.52.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights of way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1)(k) through (n).

- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
 - L. Uninhabitable structures accessory to fish and wildlife enhancement.
 - M. Alteration, restoration or replacement of a lawfully established dwelling that:
 - 1. Has intact exterior walls and roof structure;
 - 2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - 3. Has interior wiring for interior lights;
 - 4. Has a heating system; and
 - 5. In the case of replacement, is removed, demolished or converted to an allowable use within three months of completion of the replacement dwelling.
 - N. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under OAR 660-006.
- (Ord. 2003-007 § 1, 2003; Ord. 94-038 § 1, 1994; Ord. 92-025 § 2, 1992; Ord. 91-020 § 1, 1991; Ord. 91-002 § 8, 1991)

*** 18.36.030. Conditional uses permitted.**

The following uses and their accessory uses may be allowed in the Forest Use Zone, subject to applicable provisions of the Comprehensive Plan, DCC 18.36.040 and other applicable sections of DCC Title 18.

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring its use.
- D. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and

other customary production equipment for an individual well adjacent to the well head.

- E. Log scaling and weigh stations.
- F. Disposal site for solid waste for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- G. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by OAR 660-006-0025. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purpose of DCC 18.36.030 a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.
- H. Mining and processing of oil, gas or other subsurface resources, as defined in ORS 520.005, and not otherwise permitted under DCC 18.36.030(D).
- * I.** Television, microwave and radio communication facilities and transmission towers.
- J. Fire stations for rural fire protection.
- K. Utility facilities for the purpose of generating power. A power generation facility shall not

preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.

- L. Aids to navigation and aviation.
- M. Water intake facilities, related treatment facilities, pumping stations and distribution lines.
- N. Reservoirs and water impoundments.
- O. Cemeteries.
- P. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. electrical, gas, oil, geothermal) with rights of way 50 feet or less in width.
- Q. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- R. Type 2 or 3 Home Occupation, subject to DCC 18.116.280.
- S. Expansion of existing airports.
- T. Public road and highway projects as described as ORS 215.283(2)(p) through (r) and 215.283(3).
- U. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of DCC Title 18 and the following requirements:
 - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2. Only minor incidental and accessory retail sales are permitted;
 - 3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 - 4. Accommodations must be located within one-quarter mile of fish Type F waters.
- V. Forest management research and experimentation facilities as defined by ORS

526.215 or where accessory to forest operations.

- W. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270.
- X. A manufactured home in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. The use shall be subject to the review criteria in DCC 18.116.090, as well as DCC 18.36.040 and 18.36.060 of this chapter. The manufactured home shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling. A temporary residence approved under this subsection is not eligible for replacement under OAR 660-006-025 (3)(p).
- Y. Single-family dwellings or manufactured homes as specified in DCC 18.116.070, as pursuant to DCC 18.36.050.
- Z. Public parks including only those uses specified under OAR 660-034-0035.
- AA. Private seasonal accommodations for fee hunting operations may be allowed subject to DCC 18.36.050 and the following requirements:
 - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2. Only minor incidental and accessory retail sales are permitted; and
 - 3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- BB. Any gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons which continue or can reasonably be expected to continue for

more than 120 hours within any three-month period and any part of which is held in open spaces.

(Ord. 2004-002 § 5, 2004; Ord. 2000-033 § 1, 2000; Ord. 94-038 § 1, 1994; Ord. 92-068 § 1, 1992; Ord. 92-025 § 2, 1992; Ord. 91-038 § 1, 1991; Ord. 90-014 § 28, 1990; Ord. 86-018 § 8, 1986)

* **18.36.040. Limitations on conditional uses.**

A use authorized by DCC 18.36.030 must meet the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- * A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest lands.
- * B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- * C. Prior to final approval of any use listed in DCC 18.36.030, the land owner shall sign and record in the County Clerk's office a written statement recognizing the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.

(Ord. 94-038 § 1, 1994; Ord. 92-025 § 2, 1992; Ord. 91-020 § 1, 1991)

18.36.050. Standards for single-family dwellings.

A. General provisions.

1. Dwellings listed as a conditional use under DCC 18.36.050 shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.36.050(B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and

record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.

- c. No other dwellings shall be located on the tract.
- d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules 629-24-101(3)).

For purposes of DCC 18.36.050, evidence of a domestic water supply means:

- i. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
- ii. A water use permit issued by the Water Resources Department for the use described in the application; or
- iii. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS

12. The campground shall be licensed as a tourist facility by the State Department of Health as specified in ORS 446, unless operated by a public entity, timber company or private utility.

13. One dwelling may be allowed for a resident caretaker or proprietor.

(Ord. 2004-013 § 14, 2004; Ord. 95-075 § 1, 1995; Ord. 91-038 § 3, 1991)

18.128.330. Microwave and radio communication towers in the SM zone.

A conditional use permit for siting of a microwave or radio communication tower and accessory equipment structures in the SM Zone shall be subject to the criteria of DCC 18.128.340 and the following criteria:

- A. Towers shall be limited to monopole towers of under 150 feet and lighted only as prescribed by aviation safety regulations.
- B. Towers and accessory equipment structures shall be located only on portions of an SM-Zoned site that do not overlay economically viable mineral or aggregate deposits and that minimize conflicts with mining operations at the site.
- C. Such facilities proposed in an SM Zone where the underlying or surrounding comprehensive plan designation is for forest use must demonstrate compliance with the criteria set forth in DCC 18.36.040.
- D. No new parcels or lots shall be created for siting of the proposed tower.
- E. Such facilities must not conflict with any site plan which has been previously approved by the County.

(Ord. 97-017 § 8, 1997; Ord. 95-075 § 1, 1995; Ord. 95-046 § 3, 1995)

*** 18.128.340. Wireless Telecommunications Facilities.**

An application for a conditional use permit for a wireless telecommunications facility or its equivalent in the EFU, Forest, or Surface Mining Zones shall comply with the applicable standards, setbacks and criteria of the base zone and any

combining zone and the following requirements. Site plan review under DCC 18.124 including site plan review for a use that would otherwise require site plan review under DCC 18.84 shall not be required.

A. Application Requirements. An application for a wireless telecommunications facility shall comply with the following meeting, notice, and submittal requirements:

1. Neighborhood Meeting. Prior to scheduling a pre-application conference with Planning Division staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than 10 days prior to the date set for the meeting to owners of record of property within:

- a. One thousand three hundred twenty feet for a tower or monopole no greater than 100 feet in height, and
- * b. Two thousand feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by DCC Title 22.

2. Pre-Application Conference. Applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with Planning Division staff.

3. Submittal Requirements. An application for a conditional use permit for a wireless telecommunications facility shall include:

- a. A copy of the blank lease form.
- b. A copy of the applicant's Federal Communications Commission license.
- c. A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles.

- d. A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under DCC 18.128.340(A)(1).
- e. A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date and location of the meeting and a list of meeting attendees.
- f. A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, any equipment shelters, utility connections, and any fencing proposed to enclose the facility.
- g. A copy of the design specifications, including proposed colors, and/or elevation of an antenna array proposed with the facility.
- h. An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape.
- i. A copy of a letter of determination from the Federal Aviation Administration or the Oregon Department of Transportation - Aeronautics Division as to whether or not aviation lighting would be required for the proposed facility.

* B. Approval Criteria: An application for a wireless telecommunication facility will be approved upon findings that:

- * 1. The facility will not be located on irrigated land, as defined by DCC 18.04.030.
- * 2. The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must

demonstrate that it has made a good faith effort to co-locate its antennas on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served.

- * 3. The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residences.
- * 4. A tower or monopole located in an LM Zone is no taller than 30 feet. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.
- * 5. In all cases, the applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural or topographic screening available.
- * 6. Any tower or monopole is finished with natural wood colors or colors selected from amongst colors approved by Ordinance 97-017.
- * 7. Any required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODOT-Aeronautics regulations.
- * 8. The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site.
- * 9. Any tower or monopole shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting the statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area

designed to provide the required spacing between antenna arrays of different carriers.

- * 10. Any approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner.

(Ord. 2000-019 § 2, 2000; Ord. 97-063 § 2, 1997; Ord. 97-017 § 8, 1997)

18.128.350. Guest lodge.

- A. The exterior of the building shall maintain a residential appearance.
- B. One off-street parking space shall be provided for each guest room in addition to parking to serve the residents.
- C. The lodge shall be operated in a way that will protect neighbors from unreasonable disturbance from noise, dust, traffic or trespass.
- D. Occupancies for individuals shall be limited to not more than 30 consecutive days.
- E. Meals shall be served to registered overnight lodge guests only and shall not be provided to the public at large.

(Ord. 97-029 § 3, 1997)

18.128.360. Guest ranch.

A guest ranch established under DCC 18.128.360 shall meet the following conditions:

- A. Except as provided in DCC 18.128.360©, the lodge, bunkhouses or cottages cumulatively shall:
 - 1. Include not less than four nor more than 10 overnight guest rooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities, and;
 - 2. Not exceed a total of 12,000 square feet in floor area.
- B. The guest ranch shall be located on a lawfully created parcel that is:
 - 1. At least 160 acres in size;

- 2. The majority of the lot or parcel is not within 10 air miles of an urban growth boundary containing a population greater than 50,000;
- 3. The parcel containing the dwelling of the person conducting the livestock operation; and
- 4. Not classified as high value farmland as defined in DCC 18.04.030.

- C. For each doubling of the initial 160 acres required under DCC 18.128.360(B), up to five additional overnight guest rooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guest rooms and 21,000 square feet of floor area.

- D. A guest ranch may provide recreational activities in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding or swimming. Intensively developed recreational facilities such as a golf course or campground as defined in DCC Title 18, shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course or with an existing campground.

- E. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of meals provided to the guests shall be included as part of the fee to visit to or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.

- F. The exterior of the buildings shall maintain a residential appearance.

- G. To promote privacy and preserve the integrity of the natural setting, guest ranches shall retain existing vegetation around the guest lodging structure.

- H. All lighting shall be shielded and directed downward in accordance with DCC 15.10, Outdoor Lighting Control.

- I. Signage shall be restricted to one sign no greater than 20 square feet, nonilluminated and posted at the entrance to the property.
- J. Occupancies shall be limited to not more than 30 days.
- K. The guest ranch shall be operated in a way that will protect neighbors from unreasonable disturbance from noise, dust, traffic or trespass.
- L. One off-street parking space shall be provided for each guestroom in addition to parking to serve the residents.
- M. Any conversion or alterations to properties designated as historic landmarks shall be approved by the Deschutes County Historical Landmarks Commission.
(Ord. 2004-020 § 2, 2004; Ord. 2004-001 § 3, 2004; Ord. 2001-043 § 1, 2001; Ord. 98-056 § 2, 1998)

Note: DCC 18.128.360 is repealed December 31, 2005.

18.128.370. Time-share unit.

A time-share unit established under this subsection shall meet the following conditions:

- A. Any time-share unit project shall have its primary access on an arterial or collector street.
- B. New time-share units may be developed in vacant areas in the applicable zoning districts provided that such developments comply with DCC 18.128.370(A), and the following:
 - 1. That such development has a minimum site size of 10 acres, except within the UUC-Sunriver Zone.
 - 2. That such development is appropriately buffered by the use of yards, landscaping, etc., from adjoining properties as determined during site plan review considering the need for privacy and the effects of noise.
- C. The Planning Director or Hearings Body may require bonds to assure installation and maintenance of landscaping, parking and facilities that are part of the buffering scheme. It may also require that an adequate mechanism will exist, such as an owners'

association, that will assure maintenance of such facilities.

- D. No structure shall be utilized as a time-share unit unless all the units in the structure or particular phase of the development are used as time-share units for this purpose.
(Ord. 2000-033 § 9, 2000)

18.128.380. Procedure for taking action on conditional use application.

The procedure for taking action on a conditional use application shall be as follows:

- A. A property owner may initiate a request for a conditional use by filing an application on forms provided by the Planning Department.
- B. Review of the application shall be conducted according to the terms of DCC Title 22, the Uniform Development Procedures Ordinance.
(Ord. 86-032 § 1, 1986)

18.128.390. Time limit on a permit for a conditional use.

Duration of permits issued under DCC 18.128 shall be as set forth in DCC 22.36.

(Ord. 95-018 § 4, 1995; Ord. 91-020 § 1, 1991)

18.128.400. Occupancy permit.

The Planning Director or Hearings Body may require an occupancy permit for any conditional use permitted and approved pursuant to the provisions of DCC Title 18. The Planning Director or Hearings Body shall consider such a requirement for any use authorized by a conditional use permit for which the ordinance requires on-site or off-site improvements or where such conditions have been established by the Planning Director or Hearings Body upon approval of such use. The requirement of an occupancy permit shall be for the intent of insuring permit compliance and said permit shall not be issued except as set forth by the Planning Director or Hearings Body. The authority to issue an occupancy permit upon compliance with the requirements and conditions of a conditional use permit may be delegated to the Planning Director or the building inspector by the Hearings